

## TITLE 327 WATER POLLUTION CONTROL BOARD

### LSA Document #02-327

#### SUMMARY/RESPONSE TO COMMENTS FROM THE THIRD COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from June 1, 2003, through June 21, 2003, on the preliminarily adopted rule concerning on-site residential sewage discharging disposal systems within the Allen County on-site waste management district. IDEM received comments from the following parties during the comment period:

Gary Chapple, representing the Fort Wayne-Allen County Health Department (GC)

Karan Ford, representing the Fort Wayne Area Association of Realtors (KF)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* The Fort Wayne-Allen County Department of Health and the Allen County Commissioners have been working with IDEM on refinements to the proposed rule particularly in the area of sampling parameters and frequency. We support final adoption of a rule that incorporates the changes as shown in the rule version provided by IDEM to the Fort Wayne-Allen County Department of Health and the Allen County Commissioners on June 17, 2003, where, notably, the sampling frequency for e. coli and total residual chlorine has been changed from one (1) time per month to quarterly and total residual chlorine is not required to be sampled both in the contact tank and in the final discharge. (GC)

*Response:* IDEM appreciates the efforts of the Allen County Department of Health in helping to develop this rule and will continue to work to provide an environmentally protective rule that is not too burdensome on residents with such systems.

*Comment:* Do all existing septic system owners have to register once the Allen County on-site waste management district is established? (KF)

*Response:* The on-site management district was created in the 2002 legislative session by Senate Enrolled Act 461-2002. The duties and functions of the district are spelled out in the bill. The primary focus of the legislation was to set up the district for on-site sewage discharging disposal systems. Owners of such systems must become members of the district prior to being allowed to discharge under this rule. The district's relationship with owners of existing non-discharging septic systems can be better understood by reviewing the local ordinances under which the district was formed.

*Comment:* Will IDEM act quickly to approve systems that have proven viable in other states? (KF)

*Response:* SEA 461-2002 does not give IDEM the authority to approve on-site treatment technologies for the purpose of this proposed general permit. These duties must be performed by the local health department and the Indiana State Department of Health.

*Comment:* How long will experimental systems have to be tested? (KF)

*Response:* Neither SEA 461 nor the proposed general permit rule refer to the term "experimental systems". 327 IAC 15-14-8 does require continuous monitoring for all on-site residential sewage discharging disposal systems located within the Allen County on-site waste management district.

*Comment:* What if a property buyer will not sign a statement requesting to remain subject to the rule as required by 327 IAC 15-14-4(c)(2)? (KF)

*Response:* The discharging disposal system cannot discharge without being subject to the general permit that requires a statement of intent to be covered by the general permit rule. Failure

to do so would result in violation of 327 IAC 15-14 and IC 13-18-12-9 and would subject the owner to an enforcement action by IDEM. Furthermore, the district could also take action against the property owner.

*Comment:* The Notice of Intent (NOI) process needs more clarity, such as, explaining who is to provide the map (327 IAC 15-14-4(e)(2)) with the required information. (KF)

*Response:* The property owner shall submit a request to the Allen County On-site Management District for inclusion into the district. The Allen County On-site Management District is required to submit the NOI to IDEM in accordance with 327 IAC 15-14-4(d) and (e).

*Comment:* What is the remedy for noncompliance with provisions of the rule? (KF)

*Response:* 327 IAC 15-14-10(c) specifies that the rule is enforceable under 327 IAC 15-4-1 and IC 13-30 that contains, among other provisions, the state's ability to assess civil penalties not to exceed twenty-five thousand dollars (\$25,000) per violation per day. The ultimate goal of the rule is to assure that discharges meet water quality standards, which is important to protect human health.

*Comment:* The costs of these on-site residential sewage discharging disposal systems and associated operating and laboratory expenses may severely impact whether or not such systems are viable at all for use in the approximately eight hundred thousand (800,000) Indiana homes that currently have septic systems. This could, therefore, have a very negative impact to overall housing within the state. (KF)

*Response:* Under current state law, the on-site residential sewage discharging disposal systems provisions of SEA 461-2002 and all of 327 IAC 15-14 apply only to Allen County. The intent of the legislation was to provide relief to people who are already experiencing a negative impact to the value of their homes due to the septic failure problem in Allen County. Such systems are prohibited elsewhere in the state in lieu of preferable alternatives for wastewater treatment.

*Comment:* What are the proposed plans to clearly communicate these requirements to all citizens including the elderly, special needs, and non-English speaking individuals who may potentially be impacted? (KF)

*Response:* IDEM is confident that the new district being formed in Allen County will work to communicate effectively with residents that may wish to pursue a system subject to this rule. IDEM also will work to provide available information about the rule on our website and in other forums.